

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN JAMES DABNEY,

Petitioner,

Case No. 14-cv-14935

v.

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

SHANE PLACE,

Respondent.

UNITED STATES MAGISTRATE JUDGE
MICHAEL J. HLUCHANIUK

/

**ORDER GRANTING APPLICATION TO PROCEED
IN FORMA PAUPERIS ON APPEAL [21]**

Petitioner filed a pro se petition for writ of habeas corpus on December 22, 2014. *See* Dkt. No. 1. On March 17, 2016, the Court issued an Opinion and Order denying the petition and denying Petitioner a certificate of appealability. Before the Court is Petitioner's motion to proceed in forma pauperis on appeal.

The standard for granting an application for leave to proceed *in forma pauperis* is a lower standard than the standard for certificates of appealability. *See Foster v. Ludwick*, 208 F. Supp.2d 750, 764 (E.D. Mich. 2002). Whereas a certificate of appealability may only be granted if petitioner makes a substantial showing of the denial of a constitutional right, a court may grant *in forma pauperis* status if it finds that an appeal is being taken in good faith. *Id.* at 764 65; 28 U.S.C. § 1915(a)(3); FED. R. APP. 24(a). "Good faith" requires a showing that the issues

raised are not frivolous; it does not require a showing of probable success on the merits. *Foster*, 208 F. Supp. 2d at 765. Though the Court has found that the petition is without merit, and that the determination is not reasonably debatable, the Court nevertheless finds that an appeal could be taken in good faith and Petitioner may proceed *in forma pauperis* on appeal. *Id.*

Accordingly, Petitioner's application to proceed *in forma pauperis* on appeal [21] is **GRANTED**.

IT IS SO ORDERED.

Dated: May 2, 2016

/s/Gershwin A Drain
HON. GERSHWIN A. DRAIN
United States District Court Judge